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SENATE BILL 5753

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State of Washington

59th Legislature

2005 Regular Session

By Senators Berkey, Keiser, Benson and Kohl-Welles

Read first time 02/04/2005. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to creating a consumer or advocate-run mental  
2 health service delivery system; amending RCW 71.24.025 and 71.24.300;  
3 reenacting and amending RCW 71.24.015; making an appropriation;  
4 providing an effective date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 71.24.015 and 2001 c 334 s 6 and 2001 c 323 s 1 are  
7 each reenacted and amended to read as follows:

8 The legislature finds that the involvement of persons with mental  
9 illness, their family members, and advocates in designing,  
10 implementing, and delivering mental health services reduces unnecessary  
11 hospitalizations and incarceration and promotes the recovery and  
12 employment of persons with mental illness. To improve the quality of  
13 services available and promote the rehabilitation, recovery, and  
14 reintegration of persons with mental illness, consumer and advocate-run  
15 mental health services are an integral part of the community mental  
16 health system and shall be supported.

17 It is the intent of the legislature to establish a community mental  
18 health program (~~which shall~~) to help people experiencing mental

1 illness to retain a respected and productive position in the community.  
2 This will be accomplished through programs which provide for:

3 (1) Access to mental health services for adults of the state who  
4 are acutely mentally ill, chronically mentally ill, or seriously  
5 disturbed and children of the state who are acutely mentally ill,  
6 severely emotionally disturbed, or seriously disturbed, which services  
7 recognize the special needs of underserved populations, including  
8 minorities, children, the elderly, disabled, and low-income persons.  
9 Access to mental health services shall not be limited by a person's  
10 history of confinement in a state, federal, or local correctional  
11 facility. It is also the purpose of this chapter to promote the early  
12 identification of mentally ill children and to ensure that they receive  
13 the mental health care and treatment which is appropriate to their  
14 developmental level. This care should improve home, school, and  
15 community functioning, maintain children in a safe and nurturing home  
16 environment, and should enable treatment decisions to be made in  
17 response to clinical needs in accordance with sound professional  
18 judgment while also recognizing parents' rights to participate in  
19 treatment decisions for their children;

20 (2) Accountability of efficient and effective services through  
21 state of the art outcome and performance measures and statewide  
22 standards for monitoring client and system outcomes, performance, and  
23 reporting of client and system outcome information. These processes  
24 shall be designed so as to maximize the use of available resources for  
25 direct care of people with a mental illness;

26 (3) Minimum service delivery standards;

27 (4) Priorities for the use of available resources for the care of  
28 the mentally ill consistent with the priorities defined in the statute;

29 (5) Coordination of services within the department, including those  
30 divisions within the department that provide services to children,  
31 between the department and the office of the superintendent of public  
32 instruction, and among state mental hospitals, county authorities,  
33 community mental health services, and other support services, which  
34 shall to the maximum extent feasible also include the families of the  
35 mentally ill, and other service providers; and

36 (6) Coordination of services aimed at reducing duplication in  
37 service delivery and promoting complementary services among all  
38 entities that provide mental health services to adults and children.

1 It is the policy of the state to encourage the provision of a full  
2 range of treatment and rehabilitation services in the state for mental  
3 disorders. The legislature intends to encourage the development of  
4 county-based and county-managed mental health services with adequate  
5 local flexibility to assure eligible people in need of care access to  
6 the least-restrictive treatment alternative appropriate to their needs,  
7 and the availability of treatment components to assure continuity of  
8 care. To this end, counties are encouraged to enter into joint  
9 operating agreements with other counties to form regional systems of  
10 care which integrate planning, administration, and service delivery  
11 duties assigned to counties under chapters 71.05 and 71.24 RCW to  
12 consolidate administration, reduce administrative layering, and reduce  
13 administrative costs.

14 It is further the intent of the legislature to integrate the  
15 provision of services to provide continuity of care through all phases  
16 of treatment. To this end the legislature intends to promote active  
17 engagement with mentally ill persons and collaboration between families  
18 and service providers.

19 **Sec. 2.** RCW 71.24.025 and 2001 c 323 s 8 are each amended to read  
20 as follows:

21 Unless the context clearly requires otherwise, the definitions in  
22 this section apply throughout this chapter.

23 (1) "Acutely mentally ill" means a condition which is limited to a  
24 short-term severe crisis episode of:

25 (a) A mental disorder as defined in RCW 71.05.020 or, in the case  
26 of a child, as defined in RCW 71.34.020;

27 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the  
28 case of a child, a gravely disabled minor as defined in RCW 71.34.020;  
29 or

30 (c) Presenting a likelihood of serious harm as defined in RCW  
31 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

32 (2) "Advocate" means family members of consumers, members of  
33 consumer controlled organizations, or members of family member  
34 controlled organizations.

35 (3) "Available resources" means funds appropriated for the purpose  
36 of providing community mental health programs under RCW 71.24.045,  
37 federal funds, except those provided according to Title XIX of the

1 Social Security Act, and state funds appropriated under this chapter or  
2 chapter 71.05 RCW by the legislature during any biennium for the  
3 purpose of providing residential services, resource management  
4 services, community support services, and other mental health services.  
5 This does not include funds appropriated for the purpose of operating  
6 and administering the state psychiatric hospitals, except as negotiated  
7 according to RCW 71.24.300(1)(e).

8 ~~((3))~~ (4) "Child" means a person under the age of eighteen years.

9 ~~((4))~~ (5) "Chronically mentally ill adult" means an adult who has  
10 a mental disorder and meets at least one of the following criteria:

11 (a) Has undergone two or more episodes of hospital care for a  
12 mental disorder within the preceding two years; or

13 (b) Has experienced a continuous psychiatric hospitalization or  
14 residential treatment exceeding six months' duration within the  
15 preceding year; or

16 (c) Has been unable to engage in any substantial gainful activity  
17 by reason of any mental disorder which has lasted for a continuous  
18 period of not less than twelve months. "Substantial gainful activity"  
19 shall be defined by the department by rule consistent with Public Law  
20 92-603, as amended.

21 ~~((5))~~ (6) "Community mental health program" means all mental  
22 health services, activities, or programs using available resources.

23 ~~((6))~~ (7) "Community mental health service delivery system" means  
24 public or private agencies that provide services specifically to  
25 persons with mental disorders as defined under RCW 71.05.020 and  
26 receive funding from public sources.

27 ~~((7))~~ (8) "Community support services" means services authorized,  
28 planned, and coordinated through resource management services  
29 including, at a minimum, assessment, diagnosis, emergency crisis  
30 intervention available twenty-four hours, seven days a week,  
31 prescreening determinations for mentally ill persons being considered  
32 for placement in nursing homes as required by federal law, screening  
33 for patients being considered for admission to residential services,  
34 diagnosis and treatment for acutely mentally ill and severely  
35 emotionally disturbed children discovered under screening through the  
36 federal Title XIX early and periodic screening, diagnosis, and  
37 treatment program, investigation, legal, and other nonresidential  
38 services under chapter 71.05 RCW, case management services, psychiatric

1 treatment including medication supervision, counseling, psychotherapy,  
2 assuring transfer of relevant patient information between service  
3 providers, and other services determined by regional support networks.

4 ~~((+8+))~~ (9) "Consumer" or "mental health consumer" means a person  
5 who has applied for, is eligible for, is receiving, or has received  
6 mental health services. For a child under the age of thirteen, or for  
7 a child age thirteen or older whose parents or legal guardians are  
8 involved in the treatment plan, the definition of consumer includes  
9 parents or legal guardians.

10 (10) "Consumer-run" or "consumer or advocate-run" means entirely  
11 consumer-directed and operated or directed and operated by a  
12 partnership of consumers or advocates and nonconsumer professionals.

13 (11) "County authority" means the board of county commissioners,  
14 county council, or county executive having authority to establish a  
15 community mental health program, or two or more of the county  
16 authorities specified in this subsection which have entered into an  
17 agreement to provide a community mental health program.

18 ~~((+9+))~~ (12) "Department" means the department of social and health  
19 services.

20 ~~((+10+))~~ (13) "Licensed service provider" means an entity licensed  
21 according to this chapter or chapter 71.05 RCW or an entity deemed to  
22 meet state minimum standards as a result of accreditation by a  
23 recognized behavioral health accrediting body recognized and having a  
24 current agreement with the department, that meets state minimum  
25 standards or individuals licensed under chapter 18.57, 18.71, 18.83, or  
26 18.79 RCW, as it applies to registered nurses and advanced registered  
27 nurse practitioners.

28 ~~((+11+))~~ (14) "Mental health services" means all services provided  
29 by regional support networks and other services provided by the state  
30 for the mentally ill.

31 ~~((+12+))~~ (15) "Mentally ill persons" and "the mentally ill" mean  
32 persons and conditions defined in subsections (1), ~~((+4+))~~ (5),  
33 ~~((+17+))~~ (20), and ~~((+18+))~~ (21) of this section.

34 ~~((+13+))~~ (16) "Regional support network" means a county authority  
35 or group of county authorities recognized by the secretary that enter  
36 into joint operating agreements to contract with the secretary pursuant  
37 to this chapter.

1        ~~((14))~~ (17) "Residential services" means a complete range of  
2 residences and supports authorized by resource management services and  
3 which may involve a facility, a distinct part thereof, or services  
4 which support community living, for acutely mentally ill persons,  
5 chronically mentally ill adults, severely emotionally disturbed  
6 children, or seriously disturbed adults determined by the regional  
7 support network to be at risk of becoming acutely or chronically  
8 mentally ill. The services shall include at least evaluation and  
9 treatment services as defined in chapter 71.05 RCW, acute crisis  
10 respite care, long-term adaptive and rehabilitative care, and  
11 supervised and supported living services, and shall also include any  
12 residential services developed to service mentally ill persons in  
13 nursing homes. Residential services for children in out-of-home  
14 placements related to their mental disorder shall not include the costs  
15 of food and shelter, except for children's long-term residential  
16 facilities existing prior to January 1, 1991.

17        ~~((15))~~ (18) "Resource management services" mean the planning,  
18 coordination, and authorization of residential services and community  
19 support services administered pursuant to an individual service plan  
20 for: (a) Acutely mentally ill adults and children; (b) chronically  
21 mentally ill adults; (c) severely emotionally disturbed children; or  
22 (d) seriously disturbed adults determined solely by a regional support  
23 network to be at risk of becoming acutely or chronically mentally ill.  
24 Such planning, coordination, and authorization shall include mental  
25 health screening for children eligible under the federal Title XIX  
26 early and periodic screening, diagnosis, and treatment program.  
27 Resource management services include seven day a week, twenty-four hour  
28 a day availability of information regarding mentally ill adults' and  
29 children's enrollment in services and their individual service plan to  
30 county-designated mental health professionals, evaluation and treatment  
31 facilities, and others as determined by the regional support network.

32        ~~((16))~~ (19) "Secretary" means the secretary of social and health  
33 services.

34        ~~((17))~~ (20) "Seriously disturbed person" means a person who:  
35 (a) Is gravely disabled or presents a likelihood of serious harm to  
36 himself or herself or others, or to the property of others, as a result  
37 of a mental disorder as defined in chapter 71.05 RCW;

1 (b) Has been on conditional release status, or under a less  
2 restrictive alternative order, at some time during the preceding two  
3 years from an evaluation and treatment facility or a state mental  
4 health hospital;

5 (c) Has a mental disorder which causes major impairment in several  
6 areas of daily living;

7 (d) Exhibits suicidal preoccupation or attempts; or

8 (e) Is a child diagnosed by a mental health professional, as  
9 defined in chapter 71.34 RCW, as experiencing a mental disorder which  
10 is clearly interfering with the child's functioning in family or school  
11 or with peers or is clearly interfering with the child's personality  
12 development and learning.

13 (~~(18)~~) (21) "Severely emotionally disturbed child" means a child  
14 who has been determined by the regional support network to be  
15 experiencing a mental disorder as defined in chapter 71.34 RCW,  
16 including those mental disorders that result in a behavioral or conduct  
17 disorder, that is clearly interfering with the child's functioning in  
18 family or school or with peers and who meets at least one of the  
19 following criteria:

20 (a) Has undergone inpatient treatment or placement outside of the  
21 home related to a mental disorder within the last two years;

22 (b) Has undergone involuntary treatment under chapter 71.34 RCW  
23 within the last two years;

24 (c) Is currently served by at least one of the following child-  
25 serving systems: Juvenile justice, child-protection/welfare, special  
26 education, or developmental disabilities;

27 (d) Is at risk of escalating maladjustment due to:

28 (i) Chronic family dysfunction involving a mentally ill or  
29 inadequate caretaker;

30 (ii) Changes in custodial adult;

31 (iii) Going to, residing in, or returning from any placement  
32 outside of the home, for example, psychiatric hospital, short-term  
33 inpatient, residential treatment, group or foster home, or a  
34 correctional facility;

35 (iv) Subject to repeated physical abuse or neglect;

36 (v) Drug or alcohol abuse; or

37 (vi) Homelessness.

1        (~~(19)~~) (22) "State minimum standards" means minimum requirements  
2 established by rules adopted by the secretary and necessary to  
3 implement this chapter for: (a) Delivery of mental health services;  
4 (b) licensed service providers for the provision of mental health  
5 services; (c) residential services; and (d) community support services  
6 and resource management services.

7        (~~(20)~~) (23) "Tribal authority," for the purposes of this section  
8 and RCW 71.24.300 only, means: The federally recognized Indian tribes  
9 and the major Indian organizations recognized by the secretary insofar  
10 as these organizations do not have a financial relationship with any  
11 regional support network that would present a conflict of interest.

12        **Sec. 3.** RCW 71.24.300 and 2001 c 323 s 17 are each amended to read  
13 as follows:

14        A county authority or a group of county authorities whose combined  
15 population is no less than forty thousand may enter into a joint  
16 operating agreement to form a regional support network. Upon the  
17 request of a tribal authority or authorities within a regional support  
18 network the joint operating agreement or the county authority shall  
19 allow for the inclusion of the tribal authority to be represented as a  
20 party to the regional support network. The roles and responsibilities  
21 of the county and tribal authorities shall be determined by the terms  
22 of that agreement including a determination of membership on the  
23 governing board and advisory committees, the number of tribal  
24 representatives to be party to the agreement, and the provisions of law  
25 and shall assure the provision of culturally competent services to the  
26 tribes served. The state mental health authority may not determine the  
27 roles and responsibilities of county authorities as to each other under  
28 regional support networks by rule, except to assure that all duties  
29 required of regional support networks are assigned and that counties  
30 and the regional support network do not duplicate functions and that a  
31 single authority has final responsibility for all available resources  
32 and performance under the regional support network's contract with the  
33 secretary.

34        (1) Regional support networks shall submit an overall six-year  
35 operating and capital plan, timeline, and budget and submit progress  
36 reports and an updated two-year plan biennially thereafter, to assume  
37 within available resources all of the following duties:

1 (a) Administer and provide for the availability of all resource  
2 management services, residential services, and community support  
3 services.

4 (b) Assume the powers and duties of county authorities within its  
5 area as described in RCW 71.24.045 (1) through (7).

6 (c) Administer and provide for the availability of all  
7 investigation, transportation, court-related, and other services  
8 provided by the state or counties pursuant to chapter 71.05 RCW.

9 (d) Provide within the boundaries of each regional support network  
10 evaluation and treatment services for at least eighty-five percent of  
11 persons detained or committed for periods up to seventeen days  
12 according to chapter 71.05 RCW. Regional support networks with  
13 populations of less than one hundred fifty thousand may contract to  
14 purchase evaluation and treatment services from other networks.  
15 Insofar as the original intent of serving persons in the community is  
16 maintained, the secretary is authorized to approve exceptions on a  
17 case-by-case basis to the requirement to provide evaluation and  
18 treatment services within the boundaries of each regional support  
19 network. Such exceptions are limited to contracts with neighboring or  
20 contiguous regions.

21 (e) Administer a portion of funds appropriated by the legislature  
22 to house mentally ill persons in state institutions from counties  
23 within the boundaries of any regional support network, with the  
24 exception of persons currently confined at, or under the supervision  
25 of, a state mental hospital pursuant to chapter 10.77 RCW, and provide  
26 for the care of all persons needing evaluation and treatment services  
27 for periods up to seventeen days according to chapter 71.05 RCW in  
28 appropriate residential services, which may include state institutions.  
29 The regional support networks shall reimburse the state for use of  
30 state institutions at a rate equal to that assumed by the legislature  
31 when appropriating funds for such care at state institutions during the  
32 biennium when reimbursement occurs. The secretary shall submit a  
33 report to the appropriate committees of the senate and house of  
34 representatives on the efforts to implement this section by October 1,  
35 2002. The duty of a state hospital to accept persons for evaluation  
36 and treatment under chapter 71.05 RCW is limited by the  
37 responsibilities assigned to regional support networks under this  
38 section.

1 (f) Administer and provide for the availability of all other mental  
2 health services, which shall include patient counseling, day treatment,  
3 consultation, education services, employment services as defined in RCW  
4 71.24.035, and mental health services to children as provided in this  
5 chapter designed to achieve the outcomes specified in section 5 of this  
6 act.

7 (g) Establish standards and procedures for reviewing individual  
8 service plans and determining when that person may be discharged from  
9 resource management services.

10 (2) Regional support networks shall assume all duties assigned to  
11 county authorities by this chapter and chapter 71.05 RCW. The regional  
12 support networks, or its designee, shall provide consumer or advocate-  
13 run services.

14 (a) The department shall not require a consumer or advocate-run  
15 service to maintain licensure under this chapter if the service is  
16 nonclinical. If a service is clinical, the service shall comply with  
17 the requirements for licensed services in this chapter.

18 (b) Consumer or advocate-run services may include, but are not  
19 limited to:

20 (i) Consumer and/or advocate-operated businesses;

21 (ii) Clubhouses, including but not limited to the Fountain House  
22 model as certified by the International Center for Clubhouse  
23 Development;

24 (iii) Crisis services;

25 (iv) Advocacy and referral services;

26 (v) Vocational and employment services;

27 (vi) Self-help and peer counseling and support groups;

28 (vii) Community presence in state hospitals; and

29 (viii) Mental health advance directive training.

30 (3) A regional support network may request that any state-owned  
31 land, building, facility, or other capital asset which was ever  
32 purchased, deeded, given, or placed in trust for the care of the  
33 mentally ill and which is within the boundaries of a regional support  
34 network be made available to support the operations of the regional  
35 support network. State agencies managing such capital assets shall  
36 give first priority to requests for their use pursuant to this chapter.

37 (4) Each regional support network shall appoint a mental health  
38 advisory board which shall review and provide comments on plans and

1 policies developed under this chapter. The composition of the board  
2 shall be broadly representative of the demographic character of the  
3 region and the mentally ill persons served therein. Length of terms of  
4 board members shall be determined by the regional support network.

5 (5) Regional support networks shall assume all duties specified in  
6 their plans and joint operating agreements through biennial contractual  
7 agreements with the secretary.

8 (6) Counties or groups of counties participating in a regional  
9 support network are not subject to RCW 71.24.045(6).

10 (7) Regional support networks may receive technical assistance from  
11 the housing trust fund and may identify and submit projects for housing  
12 and housing support services to the housing trust fund established  
13 under chapter 43.185 RCW. Projects identified or submitted under this  
14 subsection must be fully integrated with the regional support network  
15 six-year operating and capital plan, timeline, and budget required by  
16 subsection (1) of this section.

17 NEW SECTION. **Sec. 4.** The sum of five million dollars, or as much  
18 thereof as may be necessary, is appropriated for the biennium ending  
19 June 30, 2007, from the general fund to the department of social and  
20 health services for the purposes of this act.

21 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of the  
23 state government and its existing public institutions, and takes effect  
24 July 1, 2005.

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